

**REGULAR MEETING
of the
CITY OF RIALTO
CITY COUNCIL
City of Rialto, acting as Successor Agency to the
Redevelopment Agency
RIALTO UTILITIES AUTHORITY**

**MINUTES
October 13, 2015**

A regular meeting of the City Council of the City of Rialto was held in the City Council Chambers located at 150 South Palm Avenue, Rialto, California 92376, on Tuesday, October 13, 2015.

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This meeting was called by the presiding officer of the Rialto City Council in accordance with the provisions of **Government Code §54956** of the State of California.

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CALL TO ORDER

Mayor Robertson called the meeting to order at 5:02 p.m.

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The roll was called and the following were present: Mayor Deborah Robertson, Council Members Ed Scott, Ed Palmer and Shawn O'Connell. Also present were City Administrator Michael Story, City Attorney Fred Galante and City Clerk Barbara McGee.

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CLOSED SESSION

1. Conference with Labor Negotiator regarding the following recognized employee organization pursuant to Government Code Section 54957.4:
Agency designated representatives:
Fred Galante, City Attorney
George Harris, Asst. to the CA/Director of Administrative Services
Employee organization:
Firefighters Union Local 3688
2. Conference with Legal Counsel - Anticipated Litigation: Initiation of litigation pursuant to paragraph (2) of Subdivision (d) of Government Code Section 54956.9. Number of cases: One case.

CLOSED SESSION

3. Conference with Legal Counsel - Anticipated Litigation: Significant exposure to litigation pursuant to paragraph (2) of Subdivision (d) of Government Code Section 54956.9. Number of cases: One case.

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4. Conference with Legal Counsel - Existing Litigation: The City Council will discuss the following pending litigation(s) pursuant to Government Code Section 54956.9(d)(1):
 - (a) Gary Chaffee v City of Rialto
U.S. District Court Case No. 5:14-CV-02264-JGB-DTB
 - (b) Geoffrey Barrett v City of Rialto
WCAB CR-92-010001
 - (c) John Black Jr. v. City of Rialto
WCAB CR-08-005001
 - (d) Vanessa Bowling v. City of Rialto
WCAB CR-13-0050419
 - (e) Tim Brayshaw v. City of Rialto
WCAB CR-09-0500035 & CR-11 -0000004
 - (f) Ernest Campa v. City of Rialto
WCAB CR-94-0500004
 - (g) Joseph Cirilo v. City of Rialto
WCAB CR-12-005074
 - (h) Tyrone Green v. City of Rialto
WCAB CR-10-00500053 & CR-10-0500054
 - (i) Brian Grice v. City of Rialto
WCAB CR-04-0050006
 - (j) Timothy Heinemeyer v. City of Rialto
WCAB CR-06-00500046
 - (k) Daniel Kitt v. City of Rialto
WCAB CR-14-005008
 - (l) James Kurkoske v. City of Rialto
WCAB CR-15-005047
 - (m) Andy Lore v. City of Rialto
WCAB CR-09-0500033 & CR-13-005062
 - (n) James Massey v. City of Rialto
WCAB CR-14-005054 & CR-14-005058
 - (o) Brian Park v. City of Rialto
WCAB CR-10-00500093
 - (p) Alexander Rodriguez v. City of Rialto
WCAB CR-09-0500029
 - (q) Bianca Rodriguez v. City of Rialto
WCAB CR-06-00500033 & CR-10-500104
 - (r) Scott Schwingel v. City of Rialto
WCAB CR-01 -010001
 - (s) Timothy Strathmann v. City of Rialto
WCAB CR-11 -00505035
 - (t) Kathy Thompson v. City of Rialto
WCAB CR-86-010001

CLOSED SESSION

Motion by Council Member Palmer, second by Council Member Scott and carried by unanimous vote to go into Closed Session at 5:05 pm. City Council returned at 5:54 pm.

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CALL TO ORDER

Mayor Robertson called the meeting to order at 6:08 p.m.

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The roll was called and the following were present: Mayor Deborah Robertson, Mayor Pro Tem Joe Baca Jr., Council Members Ed Scott, Ed Palmer and Shawn O'Connell. Also present were City Administrator Michael Story, City Clerk Barbara McGee and City Attorney Fred Galante.

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Pledge of Allegiance and Invocation

Council Member Ed Scott led the pledge of allegiance and Pastor William Sonny Phillips, St. Paul Family Ministries gave the Invocation.

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City Attorney's Report on Closed Session

City Attorney Galante stated that City Council met in Closed Session and discussed the one item listed under Closed Session on the Agenda.

1. Conference with Labor Negotiator concerning the Firefighters Union Local 3688. City Council provided direction and no further action was taken.
2. Conference with Legal Counsel on two cases of anticipated litigation. City Council was provided an update and no reportable action was taken.
3. Conference with Legal Counsel on another case of anticipated litigation. City Council was provided an update and no reportable action was taken.
4. Conference with Legal Counsel regarding existing workers compensation matters. Item 4(a) Gary Chaffee v. City of Rialto, Motion by Council Member Scott, second by Mayor Pro Tem Baca Jr. and carried by unanimous vote to approve the settlement of that claim for \$25,000 in exchange of full releases. 4(f) Erneset Campa v. City of Rialto. City Council heard an update and no action was taken. As to the balance of the items, City Council heard short updates as to the status and no further action was taken.

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PRESENTATIONS AND PROCLAMATIONS

- 1 Presentation-2014-2015 Beautification Commission Annual Report by Chairperson Andy Carrizales.

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Presentation – Fire Department Community Paramedicine Program – Fire Chief Mat Fratus.

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ORAL COMMUNICATIONS

No one came forward to speak.

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Removing or Continuing Items

Council Member O'Connell requested to make a comment on D-9.

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City Administrator Story stated they are pulling TAB 5, which is the MOU related to the Firefighters Union Local 3688. They will be bringing it back at the October 27th City Council Meeting.

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CONSENT CALENDAR

A. WAIVE FULL READING OF ORDINANCES

1. Waive reading in full, all ordinances considered at this meeting.

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B. APPROVAL OF WARRANT RESOLUTIONS

B.1 15-733 Resolution No. 12 (09/25/15)

B.2 15-734 Resolution No. 13 (10/02/15)

B.3 15-741 Resolution No. 14 (10/09/15)

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C. APPROVAL OF MINUTES

C.1 Regular City Council Meeting – September 22, 2015

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D. MISCELANEOUS

D.1 Request City Council to Approve An Extraterritorial Water Service Agreement with the City of San Bernardino Municipal Water Department for Water Services Provided by City of Rialto/Rialto Utility Authority at North Lassen Street in the City of San Bernardino, California.

D.2 Request City Council to Approve Request for Proposal for Professional Technical Consulting Services to update the Housing Element of the Rialto General Plan and perform on-call Advance Planning Professional Services.

D.3 Request City Council to Approve a Travel and Training Request for IVS SWAT Medic Jacob Huber to attend Tactical Medicine Course, Modules A & B, October 26 through November 6, 2015, at an Estimated Cost of \$5,420.50.

D.4 Request City Council to Authorize the Purchase of a Ford Police Explorer Utility Vehicle from Bob Wondries Ford for the Amount of \$30,541.76.

D.5 Request City Council to Approve the City of Rialto's participation in the 2015-2016 iEfficient Public Outreach Campaign with San Bernardino Valley Municipal Water District for \$18,575 for Water Conservation efforts.

CONSENT CALENDAR

- D.6** Request City Council Approval of the City of Rialto's Cost Sharing for Development of the 2015 San Bernardino Valley Regional Urban Water Management Plan Project with the San Bernardino Valley Municipal Water District for \$31,052.
- D.7** Request City Council Approval of the Purchase of a Total of Three (3) Database and Applications Servers, One (1) Storage Area Network (SAN) and Virtualization Software License to Support Software Upgrades City-Wide in the amount of \$49,975.65.
- D.8** Request City Council to Approve a Purchase Order to Ballard & Ballard Investigations in the amount of \$30,000 for background investigations associated with the recruitment and retention of Paramedics and Emergency Management Technicians (EMT) for the newly implemented Ambulance Operator Program.
- D.9** Request City Council to Approve the Contract Documents and Authorize the Release of Request for Bids No. 16-023 for the Cultural Center & Museum Exterior Painting and Roofing Project, City Project No. CB1502.
- D.10** Request City Council to (1) Accept the Pacific Electric Inland Empire Trail, City Project No. 080803, Federal Aid Project No. RPSTPLE 5205 (019); (2) Authorize Filing of the Notice of Completion; and (3) Release Retention to Sully-Miller Contracting Company, a Delaware corporation.
- D.11** Request City Council to (1) Accept the 2012/13 Annual Street Overlay Project, City Project No. 130807; (2) Authorize Filing of the Notice of Completion; and (3) Release Retention to Sequel Contractors, Inc., a California corporation.
- D.12** Request Rialto Housing Authority Board to Adopt **Resolution No. 06-15** Approving the Fiscal Year 2013/14 Housing Successor Agency's Housing Activity Report pursuant to Health and Safety Code Section 34176.1(f).
- D.13** Request City Council to Approve an Exclusive Right to Negotiate Agreement with Fernando Acosta for the Development of Approximately 8 Acres of Property Located at the Northeast Corner of Ayala Drive and Renaissance Parkway.

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Item D.9

Council Member O'Connell stated this involves the painting and repair of the Cultural Center and Historical Society Museum. They were intending to paint and repair but they came across some additional repairs that were needed. The City did an amazing job of addressing this and congratulated them on behalf of some citizens.

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Motion by Mayor Pro Tem Baca Jr., second by Council Member Scott and carried by unanimous vote to approve the Consent Calendar.

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TAB 1 – Ordinance approving a Development Agreement for I-210 Logistics Center III

Robb Steel, Development Services Director presented the staff report regarding and Ordinance approving a Development Agreement for I-210 Logistics Center III.

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Mayor Robertson declared the public hearing open. No one came forward.

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Motion by Council Member Palmer, second by Council Member Scott and carried by unanimous vote to close the public hearing.

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City Attorney Galante read the title of Ordinance No. 1563

“AN ORDINANCE OF THE CITY OF RIALTO APPROVING A DEVELOPMENT AGREEMENT (15- 01) BY AND BETWEEN THE CITY OF RIALTO AND PDC OC/IE, LLC AND MAKING CERTAIN FINDING IN CONNECTION THEREWITH.”

Motion by Mayor Pro Tem Baca Jr., second by Council Member Scott and carried by unanimous vote to introduce by first reading of Ordinance No. 1563, entitled “AN ORDINANCE OF THE CITY OF RIALTO APPROVING A DEVELOPMENT AGREEMENT (15-01) BY AND BETWEEN THE CITY OF RIALTO AND PDC OC/IE, LLC AND MAKING CERTAIN FINDING IN CONNECTION THEREWITH,” reading by title only and waiving further reading thereof and Adopt Budget Resolution No. 6832.

The vote was: AYES: Mayor Robertson, Mayor Pro Tem Baca Jr., Council Members: O’Connell, Scott and Palmer. NOES: none. ABSTAIN: none. ABSENT: none.

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TAB 2 – Conditional Development permit No. 769 and Variance No. 709

Gina Gibson, Planning Manager presented the staff report regarding an appeal of the Planning Commission decision denying Conditional Development Permit No. 769 and Variance No. 709 requesting a Type 21 (Off-Sale General) liquor license from the California Department of Alcoholic Beverage Control for the sales of general alcoholic beverages for off-site consumption at an existing convenience market located at 509 W. Foothill Boulevard.

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Mayor Robertson declared the public hearing open.

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ORAL COMMUNICATION

Rick Blake, representing the Applicant, are requesting the sell distilled spirits because customer requests to buy from this location. They are not bringing a new license they are simply adding a new product. They verified that surrounding residents, church and daycare facility had no issues.

**TAB 2 – Conditional Development permit
No. 769 and Variance No. 709**

Rick Blake, representing the Applicant, stated they understand the ordinance but there needs to be some wiggle room so customers can make the purchases. They feel this request is not going to be detrimental to the City but in the interest to the community.

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Council Member Scott asked Mr. Blake if generally for a store like this, is it unusual for a City to deny a conversion of a beer and wine license to an alcohol license based on the history of the store?

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Mr. Blake stated sometimes yes, sometimes no. it all circumstantial. If the business is in fact had not been problematic. Often times there are restrictions put on the operating rights.

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Motion by Council Member O'Connell, second by Mayor Pro Tem Baca Jr. and carried by unanimous vote to close the public hearing.

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Council Member O'Connell stated the Commission and City Council is very business friendly. They encourage a lot of places to come in. They try to smooth or quicken the process they have to go through. For that he appreciates Development Services staff. One of the things he is noticing is that the Planning Commission is made up of a group of citizens that volunteer their time or get paid a stipend. They had the opportunity to review this and he puts a lot of weight on this. The Police Dept. is speaking up and he respects their opinion. He is concerned that there is not just one location issue, but quite a few. He appreciates Mr. Blake coming forward to speak but do they have any kind of documentation showing that these residents ok'd it? Even if they don't have an issue, he would have some concerns. At this point he would deny the appeal.

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Council Member Scott stated Item 4 on the list, "separation of similar establishments – license for off sale general type 21 alcohol sales." That item was repealed out of their municipal code a number of years ago, as a result of gasoline stations converting to convenience stores and it made it impossible to have on a four corner intersection more than one convenience store that could sell alcohol, whether it be beer/wine or alcohol. She would like for Ms. Gibson to check on that. In relationship to the other items a 1000 sq. ft. is long distance from a school and he understands it's a preschool only open during the day. A church and park 500 ft. generally is allowable. A single-family residence 69 ft. is relatively close but they have to take into account that this is an old neighborhood and this is an old business. If this was a 7-eleven or Albertson's or Stater Bros. they wouldn't be denying this license. But they are based on the fact that it's a little mom and pop store in the City. Which is what the heart of their community is about.

**TAB 2 – Conditional Development permit
No. 769 and Variance No. 709**

Council Member Scott stated that he would like to hear from Capt. DeAnda as to call for service at this location. Are they alcohol related to the sales of beer and wine inside of the facility or are they related to the sales of beer and wine by the grocery stores that surround this store. They need to make it fair for all the businesses in the community. A lot of times when a small business brings something into the planning commission because of what it costs to take it through a variance and appeal process. They just leave and give up on it. He personally doesn't think that is right as a small business owner in this community. He thinks everybody has a right and deserves a chance. If this store has been selling beer and wine in the past without any ABC violations especially sales to minors or other serious violations, he thinks they should look at it with some conditions of hours of operation. To just flat deny it, he thinks it's wrong.

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Capt. DeAnda stated that it doesn't fall within the proximity requirements however it has to be noted that there has been an increase in blight in that area, along with the transient, homeless population. A population of people with controlled substance issues. Some of those issues are alcohol related which in turn increases calls for service when they start having traffic accidents related with pedestrians, which they have had an increase this past year of fatalities on Foothill Blvd. and a lot of them have been alcohol related. It should also be noted that there is a park down the street from the liquor store and it's a major pathway from an elementary school at Lilac and Etiwanda and preschool at Lilac and Rialto. There is a major pathway of students that are walking through these areas before and after school. Along with the County continuation high school. He believes there may be an increase if they allow the distilled spirits to be sold in those areas. They would see an increase of blight issues in those areas.

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Council Member Palmer stated that they have ordinances for a reason. They have setbacks and distances for a reason. He is not sure if it was a 7-eleven or an Albertson's that he would be voting to let them. It's based on the social issues they have and their ordinances. How can they deviate from allowing somebody to have something that the code clearly says they can't approve?

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Mayor Robertson stated that she didn't get from Capt. DeAnda if there was answer with regards to any calls associated with any activities in the area as it relates to this facility.

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Capt. DeAnda stated specifically to the facility, no.

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**TAB 2 – Conditional Development permit
No. 769 and Variance No. 709**

Mayor Robertson stated when the Planning Commission looked at it, how many facilities other than Foothill Liquor and Deli, what other businesses are also able to provide alcohol in the general area? Cardenas is across the street, do they have a license that allows for alcohol?

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Gina Gibson stated Cardenas does have an alcohol license but it's a little further away from this facility. The nearest one is listed in the report that sells the same type. They go by what the general code says and so they group like with like. In this case in order to determine the public convenience and necessity they figure out how many other establishments are offering the same type of services within a certain distance requirement and that is set by the Code and in this case it's a 1000 feet.

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City Attorney Galante stated that the staff report explains the variance issues, the request to waive the restrictions that prevented the issuance of the variance. The staff report does say that there was nothing presented that demonstrated anything unusual about the property or some unique reason as to why a variance would be granted. He hadn't heard anything in the presentation by Mr. Blake to contradict staff's opinion. He believes the staff report responds to a lot of the arguments raised.

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Council Member Scott stated the C store they are referring to is the Valero across the street? And does it sell beer, wine and/or alcohol?

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Gina Gibson stated yes, it's a Valero. Yes, they do sell alcohol.

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Council Member Scott asked when they were licensed. The church, schools, and businesses have been there for years when that C store got a liquor license and got approved.

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Capt. DeAnda stated that it's a beer and wine license.

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Mayor Robertson stated from what she can see is they are looking at the codes and the distances as it relates to the liquor license not beer and wine.

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Ms. Gibson stated that it's different. Right now they compare apples to apples. They are comparing in this case, Andy's Mart request to sell distilled spirits and its proximity to the nearest one that sells distilled spirits which in this case is the Foothill Liquor and Deli.

**TAB 2 – Conditional Development permit
No. 769 and Variance No. 709**

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Mayor Robertson asked if it was within 1000 ft.?

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Gina Gibson, Planning Manager stated yes.

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Mayor Robertson stated that she will stay focused on the distilled spirits.

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Council Member Scott asked if the criteria for Section 18.110.050 the same for liquor stores that sell distilled spirits as it is for a store that sells beer and wine?

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Ms. Gibson stated yes, ABC makes the distinction and it does relate to all types of alcoholic beverages. ABC makes the distinction when they compare these, like for like. The Valero, which is a gas station and a C store associated with it would be different than the Foothill Liquor & Deli because they don't sell the same types. They compare beer/wine with beer/wine and distilled spirits with distilled spirits.

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Council Member Scott asked if Section 18 an ABC Ordinance or a city code.

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Gina Gibson stated that it's a City Municipal Code.

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Mayor Robertson stated she is trying to understand the Planning commission's charge based on the information they had before them and how they go about making their decision. She is concerned with recognizing that the Planning Commissioners have taken the time to look at this and determine that it doesn't fit within the Codes they had presented to them. Is there some lack of clarity then she would be concerned with if the Planning Commission has an understanding. Do they have counsel advising the Planning Commission as well?

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Ms. Gibson stated yes they do. Right now, as it stands in the RMC that code section is there. If it has been repealed, then it's still in the Ordinance then they would have to do further research. There are separation criteria that applies to very request to sell alcoholic beverages. When it's a C store involved they have several criteria and then like establishments. They were not able to meet any of the separation requirements that are listed in the Code. All the reports are reviewed by legal counsel as well.

**TAB 2 – Conditional Development permit
No. 769 and Variance No. 709**

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Mayor Robertson asked Counsel for the clarification and concern that Council Member Scott raised about item 4.

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City Attorney Galante stated that its still designates 1000 ft. limit and exempts larger facilities. It still reads 1000 ft. distance. This Code 18.110 was adopted in 1993 and amended in 1996. It is possible that the establishments may have started before the distance limitations applied. The Code makes clear that to the extent that they retain their same type of liquor licenses, establishments within those distances they are exempt. Once they switch to 18.110.20 it does say does it change the type of liquor license then they are subject to the requirements.

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City Administrator Story stated when looking at the Code, it says there are four different criteria. It's ridged in saying if they don't meet all they can't do it.

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Council Member O'Connell made a motion to deny the appeal of the Planning Commission Decision, based on the input from the Planning Commission, Police Dept. and Development Services staff for safety's sake and Council Member Palmer seconded the motion.

Roll Call Vote: AYES: Council Member O'Connell and Council Member Palmer and Mayor Robertson. NOES: Council Member Scott, Mayor Pro Tem Baca Jr.

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**TAB 3 – Purchase and Sale Agreement
with PDC OC/IE, LLC**

Robb Steel, Development Services Director presented the staff report regarding the acquisition of property from San Gabriel Valley Water Company.

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Motion by Mayor Pro Tem Baca Jr., second by Council Member Scott and carried by unanimous vote to Approve a Purchase and Sale Agreement and Joint Escrow Instructions by and between the City of Rialto and PDC OC/IE, LLC, related to the acquisition of portions of APN# 0240-241 -10, 38, and 56 from the San Gabriel Valley Water Company and Adopt Budget Resolution No. 6834.

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TAB 4 – COPS Grant for 2015/2016

Sgt. Tim Layne presented the staff report accepting the California Citizens Option for Public Safety (COPS) Grant for 2015/2016.

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TAB 4 – COPS Grant for 2015/2016

Motion by Mayor Pro Tem Baca Jr., second by Council Member Palmer and carried by unanimous vote to Accept California Citizens Option for Public Safety (COPS) Allocation of 2015/2016 Funding and Adopt Budget Resolution No. 6835 Appropriating Funds in the Amount of \$159,580.

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TAB 5 – Restate and Amended MOU for Rialto Professional Firefighters Union Local 3688

This item was removed from the Agenda.

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TAB 6 – Escrow Account for Measure U Taxes

City Attorney Galante presented the staff report regarding the Escrow Agreement Form Requiring the City to Place Into an Escrow Account any Measure U Taxes on Liquid Fuel Storage Facilities Paid by Businesses.

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Council Member O'Connell stated that he is disappointed that it took 11 months to get this to move forward. They had community meetings and answered a lot of questions regarding this. The citizens group spoke up about the UUT reduction. As mentioned, the facilities will pay them but they are going to cause a lawsuit that can last a year or two, so they will have to put the money into escrow. They have a good chance of winning that. Once they win it there will be a large significant amount of money that will soon become available. It's his hope they stand by their promise to reimburse the 20% back to the ratepayers of the UUT. Also, he would like to acknowledge the employees who have given back the past seven years to have a balanced budget. By the time this passes it will be 8-9 years. He wants to stand by the people who have given a lot. He is glad to see this moving forward.

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Council Member Palmer stated constituents have been asking when are they getting a break on the UUT. This tax is under protest and in two years from now if they win this, it means they have that money. He thinks they are probably under obligation to make retroactive that 20%.

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Mayor Robertson stated she thought it was 25%? Either way is for giving back.

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City Treasurer Carrillo stated setting up this account is a separate account and not co-mingling the monies with the General Fund. He advised the City Attorney and City Administrator that they are still going to invest this money, instead of letting it sit somewhere and not earn any interest. He met with one of the financial advisors who proposed several options they can do to maximize a return on that investment.

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TAB 6 – Escrow Account for Measure U Taxes

Mayor Pro Tem Baca Jr. stated he thinks it's great that they put this in a restricted account to protect the money and invest it. Once all legal issues are final and they win this, clearly there was commitment made to the residents but at some point in time to re-invest this money back into the community for their support on this.

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Mayor Robertson stated when they started down this path, they started with actual strong legal advice and there is also some precedence that what the path they were on had already happened in Northern California and it doesn't look like it has been overturned. They all feel very positive that the actions they took and the fact that the citizens stepped forward and supported Measure U. They understood that they would see a reduction in their UUT by 25%. It's always nice when you have the checks in your possession and it will allow them to make small but prudent decisions on investing the money while they hold it in an escrow account.

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Motion by Council Member Palmer, second by Mayor Pro Tem Baca Jr. and carried by unanimous vote to Approve the Use of an Escrow Agreement Form Requiring the City to Place Into an Escrow Account any Measure U Taxes on Liquid Fuel Storage Facilities Paid by Businesses Subject to the Tax Until the Conclusion of Legal Challenges to Measure U.

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TAB 7 - Amendment No. 1 to the Construction and Credit Agreement - DCT Renaissance Rialto, LLC

Robb Steel, Development Services Director presented the staff report regarding the Accept Public Improvements, Authorize the Recordation of a Notice of Completion, Approve Amendment No. 1 to the Construction and Credit Agreement by and between the City of Rialto and DCT Renaissance Rialto, LLC.

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Motion by Council Member Palmer, second by Mayor Pro Tem Baca Jr. and carried by unanimous vote to Accept Public Improvements, Authorize the Recordation of a Notice of Completion, Approve Amendment No. 1 to the Construction and Credit Agreement by and between the City of Rialto and DCT Renaissance Rialto, LLC, Authorize Reimbursement Payments to DCT Renaissance Rialto in the Amount of \$1,141,808 related to the Construction of Public Improvements pursuant to the and Approve Budget Resolution No. 6836.

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TAB 8 – Upgrade of the City's Land Management Technology System

Robb Steel, Development Services Director presented the staff report regarding Agreement with SunGard Public Sector Inc. to Purchase TRAKiT to Upgrade the City's Land Management Technology System.

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TAB 8 – Upgrade of the City's Land Management Technology System

Motion by Mayor Pro Tem Baca Jr., second by Council Member Scott and carried by unanimous vote to Approve Agreement with SunGard Public Sector Inc. to Purchase TRAKiT to Upgrade the City's Land Management Technology System for \$386,950; including \$15,000 for credit card integration, \$45,000 for contingency for a total of \$446,950. In addition increase PO 2014-1433 by \$1950 for a total of \$21,850.

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TAB 9 - Waive the City/Successor Agency's customary conditions to close escrow for the proposed purchase of a Successor Agency parcel

Robb Steel, Development Services Director presented the staff report regarding a request from Wayne Morin to waive the City/Successor Agency's customary conditions to close escrow for the proposed purchase of a Successor Agency parcel at the southwest corner of Alder Avenue and Walnut Avenue.

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Mayor Robertson stated that this was something that came before the EDC and for her staff has normally not necessarily want to deviate from what they have done in the past. Even though this is a waiver right now, they had a lot of discussion about that it made sense to have the adjacent property owner purchasing it for the purpose of making sure they could assemble the property and allow for the flow of the traffic going in off Alder and being able to exit on Walnut. In the presentation, it would allow him a right in and a right out on Alder. The concern they had was trying to restrict more truck traffic that would allow for truck activity to go South on Alder, down to Baseline. This is not built in now, but if they act on this that is something they can have as a condition of the sale?

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Mr. Steel stated that they could address that in the Development Review Committee process. The ride in, ride out would be primarily for cars and trucks they would try to direct to the Walnut intersection. Most will be going North. Just like they did with Panattoni project they would try to incorporate conditions of approval, either physical improvements or operational requirements that they move North onto Walnut Ave.

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Mayor Robertson stated that she was very concerned that Mr. Morin hasn't been the developer in the past. He had indicated in EDC that he bought various properties with the intention to develop and end up selling them. She was concerned with why do they have such a long period on this conveyance and going all the way out to Year 11 to get a certificate of completion. She thought in their conversation they didn't want to see anyone holding the property. She doesn't see difficulty in developing this parcel of land.

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TAB 9 - Waive the City/Successor Agency's customary conditions to close escrow for the proposed purchase of a Successor Agency parcel

Robb Steel, development Services Director stated that he doesn't think it would take that long. If it went out that long, they would just keep increasing the penalties. The longer he goes, the more he pays in profit participation. They try to incentivize him economically to develop sooner rather than later. If for some reason he delays, whether its personal reasons or market conditions, he is subject to this higher tax. In year 11 he owes 20% of the profits. In year 5 its only 5%.

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Mayor Robertson stated would it be in their best interest to have a piece of property sitting out there undeveloped for over 11 years? And they are trying to develop the whole corridor.

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Robb Steel stated that their goal, whether they do this transaction or not, is to develop sooner rather than later. In this case, they thought maybe some of the long range planning considerations warranted a relaxation of some of the normal criteria.

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Mayor Robertson asked if everything around there is moving in development?

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Robb Steel stated they have development on every corner at this location. Mr. Morin has sold land under similar circumstances. He hasn't held land for long term and sold into development when conditions were right.

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Council Member O'Connell asked how big was the City property?

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Mr. Steel stated it was 3.2 acres.

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Council Member O'Connell stated that he agrees with the Mayor referencing the timeframe. He knows they are moving forward with development. His concern was looking at the 11+ years, ultimately he can sit on it and it's a prime piece of property they have at a major intersection that is moving. He is a little bit concerned about giving a piece of property and tying it up for an unknown amount of time.

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ORAL COMMUNICATIONS

Wayne Morin stated that he has been involved with Rialto for the last 12 years and have sold the land for development. He wanted to point out that his intention is always to try to develop it. The market took a big turn in 2008. He is not a big developer, and he went ahead and sold the Tamarind property to ProLogis and the Laurel property to DCT. Now Panattoni. He has six acres on Alder right now to the South of this. His intention has always been is to build. He would love to get the 3.2 acres with it because now they could bring trucks to Walnut to the 210 freeway and not come out on Alder. For him this is something he always wanted to do and he is excited about Rialto. He has been so involved with the City for the last 12 years. He also owns the little house on Alder for nine years. Besides the properties he bought the house. He is very involved with the City and excited about this project. He doesn't have a crystal ball on when smaller buildings are going to be marketable. They know the water, DCT and Target are 35-40 acre projects. Those are huge marketable buildings today. This is nine acres. There is a big difference. He would love to build sooner than later. The market dictates for smaller buildings. They are not going to put a 700,000 sq. ft. building on nine acres. It might be one, two or four small buildings. It has to be what is right for the market and right for the City because they don't want empty buildings. The six acres to the South, he plans to build on it. He would love to tie in the 3.2 acres to be able to have the access to get trucks to go North, instead of South. He has invested in this City and he believes in this City.

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Mayor Robertson stated that she doesn't doubt that he has investment and real commitment. She is just concerned with how come they have such a large timeframe. Would Mr. Morin be comfortable with that timeframe being reduced by 50%?

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Mr. Morin stated he doesn't know if he would be comfortable with 50%. He would be ok with coming down a couple of years on it. All he can say is that his plan is to not sit on the property. All the other properties he has not had them that long. The problem is because it's a smaller piece of property. He doesn't know what the market is going to warrant and how soon they can develop it. He hopes it will not take 10 years.

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Council Member Palmer stated that he agrees with Mr. Morin. Sometimes they are too eager to rush to tell people when they should build and how quick they should do it. And if they are in the real estate game, they have to wait for the market. They own 3.2 acres and what are they going to do with that? When they could have 9 acres and get a better development.

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TAB 9 - Waive the City/Successor Agency's customary conditions to close escrow for the proposed purchase of a Successor Agency parcel

Mayor Robertson stated that there are some other proposals.

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Council Member Palmer stated that he agrees that nobody has a crystal ball and he doesn't want to see something put up that is not what they want.

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Mr. Morin stated another thing he wants to point is that there was an appraisal done and he is paying the appraisal price. He is dedicating 20 feet off that 6 acres which is about \$100,000 worth to make this deal happen. He is also agreeing that if he doesn't execute by a certain time, he will reimburse the City a certain percentage of the profits. He thinks he is offering a lot to assemble this.

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Mayor Robertson stated they don't disagree, she wanted to see if Mr. Morin was willing to reduce it for a couple of years and if they can work out how the delivery of this proposal they knock off years and be under 10, then they could move it forward.

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Council Member Scott stated that his only comment is that they have 3.2 acres and they are getting \$12 per sq. ft. other properties around there they have sold for a lot less because they were small pieces of property and unimproved. So to him it makes sense to go ahead and sell it for the assemblage because otherwise what are they going to do with 3.2 acres.

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Motion by Council Member Palmer, second by Council Member O'Connell and carried by unanimous vote to approve a request from Wayne Morin to waive the City/Successor Agency's customary conditions to close escrow for the proposed purchase of a Successor Agency parcel at the southwest corner of Alder Avenue and Walnut Avenue (APN 0240-201-60) and to reduce the years from 11 to 9 years.

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TAB 10 – Property Tax Transfer for Property Annexation

Robb Steel, Development Services Director presented the staff report regarding approving the property tax transfer amount as a result of the Burrell roofing property annexation to the City of Rialto and the West Valley Water District and detaching from the San Bernardino County Fire Protection District, its Valley Service Zone, and County Service Area 70.

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**TAB 10 – Property Tax Transfer for
Property Annexation**

ORAL COMMUNICATIONS

Matthew Fagan, Burrell Roofing LLC, appreciated City Council consideration. If adopted, they can move forward with LAFCO so the project can move on into Rialto. The expansion crossed some jurisdictional lines and they have an approved PPD in the City.

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Motion by Council Member Palmer, second by Mayor Pro Tem Baca Jr. and carried by unanimous vote to Adopt Resolution No. 6837 approving the property tax revenue amounts to be transferred as a result of the pending reorganization related to Local Agency Formation Commission No. 3191 for annexation to the City of Rialto and the West Valley Water District and detachment from San Bernardino County Fire Protection District, its Valley Service Zone, and County Service Area 70.

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**TAB 11 - Construction Reimbursement
Agreement for Laurel/Walnut/Locust
Improvements**

Robb Steel, Development Services Director presented the staff report regarding Construction Reimbursement Agreement for Laurel/Walnut/Locust Improvements by and between the City of Rialto and Lewis-Hillwood Rialto LLC.

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Council Member O'Connell asked how did the \$4 million come up. Is it something that came up that they were not prepared for? Or is it a rough estimate of how they placed the money.

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Mr. Steel stated the demolition, remediation count, when they set the initial budget they had a remediation and demolition plan that said it was going to cost \$9 million to complete the demolition and remediation of the airport. When they bid the project, it was \$1 million. So the Engineer's estimate was highly exaggerated. He left enough in the demolition and remediation budget to account for change orders or something unknown. He also left money in there in case there is a claim on the pollution liability policy. There is still surplus money and the agreement provides that if there is surplus money it should be moved to infrastructure.

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Council Member O'Connell stated how did they come up with the \$4million on infrastructure.

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Mr. Steel stated that it wasn't a miss, it was just when they had a budget of \$9 million for the infrastructure they allocated all of it. With the surplus in demolition and remediation, LHR is entitled under the agreement to fund more infrastructure. It's a new project.

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TAB 11 - Construction Reimbursement Agreement for Laurel/Walnut/Locust Improvements

Motion by Council Member Palmer, second by Mayor Pro Tem Baca Jr. and carried by unanimous vote to Approve a Construction Reimbursement Agreement for Laurel/Walnut/Locust Improvements by and between the City of Rialto and Lewis-Hillwood Rialto LLC and Reallocate Funding from the Demolition and Remediation Category to the Infrastructure Category in the Airport Escrow Budget.

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Tab 12 - Firestone Branded Tires for City Fleet Vehicles

Robert Eisenbeisz, Public Works Director presented the staff report regarding the issuance of a Purchase Orders for City Fleet vehicle tires.

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Motion by Council Member Palmer, second by Mayor Pro Tem Baca Jr. and carried by unanimous vote to (1) Award a Contract Materials Agreement to Parkhouse Tires, Inc. for Firestone Branded Tires in the Amount of \$80,000, (2) Approve a Purchase Order Change Notice to Parkhouse Tires in the Not-to-Exceed Amount of \$40,000 for City Fleet Vehicle Tires, Related Products and Services, and (3) Approve a Purchase Order Change Notice to Parkhouse Tires in the Not-to-Exceed Amount of \$40,000 for Fire Department Apparatus Tires and Related Products and Services.

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TAB 13 - Goodyear Branded Tires for City Fleet Vehicle Tires

Robert Eisenbeisz, Public Works Director presented the staff report regarding the issuance of a Purchase Orders for City Fleet vehicle tires and Fire Department Apparatus tires.

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Motion by Council Member Palmer, second by Mayor Pro Tem Baca Jr. and carried by unanimous vote to (1) Reject the Bid Submitted by Parkhouse Tire Company, a California Corporation; (2) Award a Contract Materials Agreement to Daniels Tires Service for Goodyear Branded Tires in the Amount of \$60,000; (3) Approve Purchase Order Change Notices in the not-to exceed Amount of \$40,000 for City Fleet Vehicle Tires, Related Products and Services, and in the not-to-exceed Amount of \$20,000 for Fire Department Apparatus Tires, Related Products and Services.

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TAB 14 - Freeway Maintenance Agreement with the California Department of Transportation for the Portion of the Interstate 10 Freeway

Robert Eisenbeisz, Public Works Director presented the staff report regarding Authorizing the Execution of a Freeway Maintenance Agreement with the California Department of Transportation for the Portion of the Interstate 10 Freeway within City of Rialto Jurisdiction.

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TAB 14 - Freeway Maintenance Agreement with the California Department of Transportation for the Portion of the Interstate 10 Freeway

Motion by Mayor Pro Tem Baca Jr., second by Council Member Palmer and carried by unanimous vote to Adopt to Resolution No. 6838 Authorizing the Execution of a Freeway Maintenance Agreement with the California Department of Transportation for the Portion of the Interstate 10 Freeway within City of Rialto Jurisdiction.

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TAB 15 - 2014/15 & 2015/16 Street Overlay Project

Robert Eisenbeisz, Public Works Director presented the staff report regarding the Third Amendment to the Professional Services Agreement with Harris & Associates for the 2014/15 & 2015/16 Street Overlay Project, City Project No. 150813 & 160801.

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Mayor Robertson asked what is the life of this Professional Agreement. When will they be going out and looking at another engineering firm for 16/17?

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Mr. Eisenbeisz stated that the agreement is unclear because the agreement doesn't have an expiration, it's upon completion of the services. They would have the ability to go back out with an RFP. Right now there is not a requirement to do that. He would recommend they do that in the next fiscal year.

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Mayor Robertson stated that she would hope that they would do that.

Mr. Eisenbeisz stated that he found a reference that they intended to do the first five years of the Capital Improvement Program.

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Motion by Mayor Pro Tem Baca Jr., second by Council Member O'Connell and carried by unanimous vote to Approve the Third Amendment to the Professional Services Agreement with Harris & Associates for the 2014/15 & 2015/16 Street Overlay Project, City Project No. 150813 & 160801, in the amount of \$183,516 for a total contract amount of \$558,449.

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TAB 16 - Facilities ADA Improvement Project, City Project No. 150201

Robert Eisenbeisz, Public Works Director presented the staff report regarding the Construction Contract to Dalke & Sons Construction, Inc., for the Facilities ADA Improvement Project, City Project No. 150201.

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TAB 16 - Facilities ADA Improvement Project, City Project No. 150201

Motion by Mayor Pro Tem Baca Jr., second by Council Member Scott and carried by a unanimous vote to (1) Award a Construction Contract to Dalke & Sons Construction, Inc., a California corporation, in the amount of \$356,040.00 for the Facilities ADA Improvement Project, City Project No. 150201; (2) Authorize a Purchase Order with Willdan Engineering in the Amount of \$18,570 for Construction Management and Inspection Services for the Facilities ADA Improvement Project, City Project No.150201; (3) Delegate Authority to the City Administrator to Approve and Execute Construction Contract Change Orders up to a Cumulative Amount of \$35,600.

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REPORTS

City Council gave their reports.

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ADJOURNMENT

Motion by Council Member Palmer, second by Council Member Scott and carried by unanimous vote to adjourn the City Council meeting at 8:52 p.m.

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